

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

v.

ABIZER A RAJ & AMAR S. DOSANJH
d/b/a A & A MOVING AND DELIVERY,
BARNOLI, INC., ANDY CHEN d/b/a
HING'S PROFESSIONAL MOVING,
MASKELYNE TRANSFER &
STORAGE, INC., ORCA MOVING
SYSTEMS, LLC, T & S
TRANSPORTATION &
INSTALLATION, INC. and T & T MILK
TRANSPORT, INC.,

Respondents.

DOCKET TV-091665

COMMISSION STAFF'S ANSWER
TO MASKELYNE TRANSFER
AND STORAGE, INC.'S
PETITION FOR
ADMINISTRATIVE REVIEW

1 Pursuant to WAC 480-07-370(1)(c) and WAC 480-07-825(4), Washington Utilities and Transportation Commission Staff (Staff) submits this answer to Maskelyne Transfer and Storage, Inc.'s (Maskelyne or Company) Petition for Administrative Review (Petition).

I. INTRODUCTION

2 On February 3, 2010, the Commission issued an initial order finding in default, and cancelling the household goods carrier permits of a number of companies including the petitioner, Maskelyne. The Commission dismissed one company that came into compliance prior to hearing. On February 8, 2010, Maskelyne filed a petition for administrative review. In its Petition, Maskelyne asks the Commission not to cancel its permit, and sets forth reasons for administrative review. Maskelyne does not specifically challenge the finding of default against it. In the interest of facilitating this proceeding, Staff does not oppose

Maskelyne's petition for administrative review, and is not opposed to rescinding cancellation of Maskelyne's household goods permit.

II. ARGUMENT AND CONCLUSION

3 In support of its Petition, Maskelyne asserts that it signed, dated, and mailed to the Commission its 2008 annual report on December 27, 2009, but that it appears the Commission did not receive it. As the Initial Order correctly found, the Commission did not receive Maskelyne's 2008 annual report by the date of the hearing, according to Commission records.¹ Based on this fact, Staff recommended, and the Commission ordered, cancellation of the Company's permit. Staff has no explanation as to why the Commission did not receive the mailed annual report, but has no reason to doubt Maskelyne's assertions. Staff does believe that confusion could have been avoided, and re-mailing accomplished, had the Company followed up prior to hearing to verify its report was in fact received. Nevertheless, it appears that the Company made a good faith, if unsuccessful, effort to come into compliance over a month before the hearing, and thereby avoid likely cancellation of its permit, and Staff was unaware of this effort at the time of hearing. Staff confirms that the Commission has now received the 2008 annual report dated December 27, 2009, and the Company is in compliance.

4 In support of its Petition, Maskelyne asserts that it did not submit any 2009

¹The Petition refers to two communications with Commission Staff. Ms. Sheri Hoyt did not testify regarding these two specific communications at hearing. Regarding the first, Ms. Hoyt did receive a call from Mr. Schab on December 22, 2009, about his compliance and the upcoming hearing. Ms. Hoyt directed him to the UTC Web site, where he could download the appropriate forms. Mr. Schab indicated at that time that he intended to file the report and any regulatory fees by the hearing date.

Ms. Hoyt attempted to contact Maskelyne on January 29, 2010, by phone, and left a voicemail message informing Mr. Schab that the Commission had yet to receive the annual report. Ms. Hoyt referred to this communication in testimony. *See* Tr. 17:22-25 (Hoyt).

The second communication described in the Petition appears to relate to Mr. Schab's returning Ms. Hoyt's call on February 3, 2010 (after hearing), prior to service of the Initial Order, when Ms. Hoyt assisted him with determining the correct fee amount.

regulatory fees with its annual report mailed on December 27, 2009, because it incorrectly used a fee schedule pertaining to ferries; however it has submitted correct fees upon learning of its error and after having consulted with Commission Staff. Staff agrees with this assertion. Staff confirms that the Company is now in compliance with respect to its 2009 regulatory fees.

5 In support of its Petition, Maskelyne also asserts health issues of its president beginning in July, 2009, and its financial situation. Staff sympathizes, although these circumstances do not in and of themselves excuse the Company from complying with Commission rules required of all household goods carriers permitted by the Commission.

6 In conclusion, based on reasons set forth above, because the Commission has yet to issue a final order in this matter, and to facilitate this proceeding, Staff does not object to Maskelyne's Petition for Administrative Review, and is not opposed to the Commission rescinding cancellation of Maskelyne's permit in a final order.²

DATED this ____ day of _____ 2010.

Respectfully submitted,

ROBERT M. MCKENNA
Attorney General

MICHAEL A. FASSIO
Assistant Attorney General
Counsel for Washington Utilities and
Transportation Commission Staff

²Should the Commission not grant the relief sought in Maskelyne's Petition, which would result in cancellation by final order, the Company would be required to apply for reinstatement of its permit under WAC 480-15-450(3), if it wishes to remain permitted. This procedural alternative will also require payment of reinstatement fees and additional administrative processes.